

Serial No.:09/752,307
Art Unit: 2685
Page 2

REMARKS

This is a full and timely response to the outstanding advisory action mailed January 12, 2006. Claims 1-29, 35, 37 and 38 are pending.

I. Present Status of Patent Application

Claims 1-28, 37, and 38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Priest, et al* (U.S. Patent No. 6,047,106) in view of *Council, et al* (National Transportable Telecommunications Capability: Commercial Satellite and Cellular Comm. For Emergency Preparedness, vol. 1, conf. 11, pages 137-140). Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified system of *Priest, et al* in view of *Knoblach, et al* (U.S. Patent No. 6,628,941). These rejections are respectfully traversed.

III. Rejections Under 35 U.S.C. §103(a)

A. Claims 1-29, 37, and 38

Claims 1-28, 37, and 38 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Priest* in view of *Council*. Claim 29 is rejected under U.S.C. §103(a) as allegedly being unpatentable over the modified system of *Priest*, in view of *Knoblach*. For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 1 recites:

1. A remote, self-contained communications antenna apparatus for establishing wireless communications, comprising:

equipment for

transceiving communication signals between said equipment and a disconnected cell site that has been disconnected from its cellular system, and

Serial No.:09/752,307

Art Unit: 2685

Page 3

transceiving communication signals between said equipment and a
communications network ; and
a mast for extending and collapsing an antenna.

(Emphasis Added).

For a proper rejection of a claim under 35 U.S.C. §103, the cited combination of references must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988) and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). Applicant respectfully submits that independent claim 1 is allowable for at least the reason that the combination of *Priest* and *Council* does not disclose, teach, or suggest at least equipment for transceiving communication signals between said equipment and a disconnected cell site that has been disconnected from its cellular system. The Advisory Action alleges that "*Priest* taught such equipments from the deployable base station (fig. 2/no. 130) communicated with pre-existing nearby base station (whether fixed or mobile) that has disabled due to natural disaster (col. 5/ln 5-58)." Applicant respectfully submits that this passage appears to be misquoted. The passage in *Priest* is:

This information, in turn, allows the deployable base station to
choose a control channel to communicate with portable stations
without interfering with pre-existing nearby base stations (either
fixed or mobile).

(Emphasis added.)

See Priest, col. 5, lines 13-17.

Applicant respectfully submits that if the deployable base station of *Priest* communicates with portable stations without interfering with preexisting nearby base stations, than *Priest* teaches away from communicating with a disconnected cell site that has been disconnected from its cellular system. To wit, *Priest* further teaches that "the deployable base station ... may be used as a temporary replacement of a stationary base station which has been disabled." *See Priest*, col. 5, lines 41-44. The deployable base station of *Priest* is used as a replacement for a disconnected cell site. *Priest* does not teach that the deployable base station is used in

Serial No.:09/752,307

Art Unit: 2685

Page 4

conjunction with, or in communication with the disconnected cell site. As the cited combination of references does not disclose, teach, or suggest, either implicitly or explicitly, all the elements of claim 1, the rejection should be withdrawn.

Because independent claim 1 is allowable over the cited references of record, dependent claims 2-29, 37, and 38 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-29, 37, and 38 contain all the steps/features of independent claim 1. *See Minnesota Mining and Manufacturing Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002) *Jeneric/Pentron, Inc. v. Dillon Co.*, 205 F.3d 1377, 54 U.S.P.Q.2d 1086 (Fed. Cir. 2000); *Wahpeton Canvas Co. v. Frontier Inc.*, 870 F.2d 1546, 10 U.S.P.Q.2d 1201 (Fed. Cir. 1989). Therefore, the rejection to claims 2-29, 37, and 38 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claims 2-29, 37, and 38 recite further features and/or combinations of features, as are apparent by examination of the claims themselves, that are patently distinct from the cited references of record. Hence there are other reasons why dependent claims 2-29, 37, and 38 are allowable.

Regarding claim 1, the Advisory Action has reiterated the conclusion that "collapsing antenna is well-known in the art, as suggested by *Council, et al* (pg. 38, paragraph 6)." *See Advisory Action*, page 2. Applicants traverse this finding that the subject matter is well known. Particularly in the context of the claimed combination that includes a self-contained communications antenna apparatus, the subject matter alleged to be well-known is too complex for a reasonably skilled person to consider it to be well-known to the point that no additional evidence is needed. Additionally, a conclusion of well-known art based on this reference would lead to a conclusion that everything disclosed in this reference is well-known. If this is indeed the case, Applicant respectfully requests that an affidavit be submitted averring that material in the *Council* reference is well-known art. Therefore, the conclusion that the element is well known is improper and should be withdrawn.

Alternatively, Applicant respectfully suggests that, instead of asserting that this element, as used in conjunction with other elements of the claim, is well known, the Examiner might

Serial No.:09/752,307

Art Unit: 2685

Page 5

consider the possibility of using the *Council* reference under 35 U.S.C. §103. Applicant does not admit that the element is obvious under 35 U.S.C. §103. Applicant merely asserts that the rejection would be properly addressed under 35 U.S.C. §103, instead of using the allegation that the element is well known.

Regarding claim 16, the Advisory Action has reiterated a conclusion that "temperature control and a solar-power generator...is notoriously well-known in the art." *See Office Action*, page 3. Applicants traverse this finding that the subject matter is well known. Particularly in the context of the claimed combination that includes a self-contained communications antenna apparatus, the subject matter alleged to be well-known is too complex for a reasonably skilled person to consider it to be well-known to the point that no additional evidence is needed. Therefore, the conclusion that the element is well known is improper and should be withdrawn.

Alternatively, Applicant respectfully suggests that, instead of asserting that this element, as used in conjunction with other elements of the claim, is well known, the Examiner might consider the possibility of using the *Knoblach* and *Michaels* references under 35 U.S.C. §103. Applicant does not admit that the element is obvious under 35 U.S.C. §103. Applicant merely asserts that the rejection would be properly addressed under 35 U.S.C. §103, instead of using the allegation that the element is well known.

B. Claim 35

The Office Action rejects claim 35 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Priest* in view of *Council*. For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Independent claim 35 recites:

35. A method for establishing wireless communications, comprising:
transceiving wireless communication signals between a wireless device and a disconnected cell site that has been disconnected from its cellular system; and

Serial No.:09/752,307

Art Unit: 2685

Page 6

transceiving communication signals between said disconnected cell site and a remote, self-contained communications antenna apparatus with a mast for extending and collapsing an antenna; and
transceiving communication signals between said remote, self-contained communications antenna apparatus and a communications network.

(Emphasis Added).

For a proper rejection of a claim under 35 U.S.C. §103, the cited combination of references must disclose, teach, or suggest all elements/features/steps of the claim at issue. Applicant respectfully submits that independent claim 35 is allowable for at least the reason that the combination of *Priest* and *Council* fail to disclose, teach, or suggest at least **transceiving wireless communication signals between a wireless device and a disconnected cell site that has been disconnected from its cellular system**. The Advisory Action alleges that "*Priest* taught such equipments from the deployable base station (fig. 2/no. 130) communicated with pre-existing nearby base station (whether fixed or mobile) that has disabled due to natural disaster (col. 5/ln. 5-58)." Applicant respectfully submits that this passage appears to be misquoted. The passage in *Priest* is:

This information, in turn, allows the deployable base station to choose a control channel to communicate with portable stations *without interfering with pre-existing nearby base stations* (either fixed or mobile).

(Emphasis added.)

See *Priest*, col. 5, lines 13-17.

Applicant respectfully submits that if the deployable base station of *Priest* communicates with portable stations without interfering with preexisting nearby base stations, than *Priest* teaches away from communicating with a disconnected cell site that has been disconnected from its cellular system. To wit, *Priest* further teaches that "the deployable base station ... may be used as a temporary replacement of a stationary base station which has been disabled." See *Priest*, col. 5, lines 41-44. The deployable base station of *Priest* is used as a replacement for a

Serial No.:09/752,307
Art Unit: 2685
Page 7

disconnected cell site. *Priest* does not teach that the deployable base station is used in conjunction with, or in communication with the disconnected cell site. As the cited combination of references does not disclose, teach, or suggest, either implicitly or explicitly, all the elements of claim 35, the rejection should be withdrawn.

Regarding claim 35, the Advisory Action has reiterated the conclusion that "collapsing antenna is well-known in the art, as suggested by *Council, et al* (pg. 38, paragraph 6)." See *Advisory Action*, page 2. Applicants traverse this finding that the subject matter is well known. Particularly in the context of the claimed combination that includes a self-contained communications antenna apparatus, the subject matter alleged to be well-known is too complex for a reasonably skilled person to consider it to be well-known to the point that no additional evidence is needed. Additionally, a conclusion of well-known art based on this reference would lead to a conclusion that everything disclosed in this reference is well-known. If this is indeed the case, Applicant respectfully requests that an affidavit be submitted averring that material in the *Council* reference is well-known art. Therefore, the conclusion that the element is well known is improper and should be withdrawn.

Alternatively, Applicant respectfully suggests that, instead of asserting that this element, as used in conjunction with other elements of the claim, is well known, the Examiner might consider the possibility of using the *Council* reference under 35 U.S.C. §103. Applicant does not admit that the element is obvious under 35 U.S.C. §103. Applicant merely asserts that the rejection would be properly addressed under 35 U.S.C. §103, instead of using the allegation that the element is well known.

IV. Miscellaneous Issues

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

Serial No.:09/752,307

Art Unit: 2685

Page 8

CONCLUSION

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-29, 35, 37, and 38 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



Charles W. Griggers, Reg. No. 47,283

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500

Customer No.: 38823

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☒ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.